IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1107 of 1992

The State of Maharashtra ..Appellant
(Orig. Opponent)

V/s

Ranu Narayan Khatale .. Respondent
(Orig. Claimant)

Shri Bharat Mehta, A.G.P for the appellant.

None for the respondent.

CORAM : K.J. ROHEE, J.
RESERVED ON :12TH APRIL, 2006
PRONOUNCED ON : 21ST APRIL, 2006.

JUDGEMENT

. The State has preferred this appeal against the judgment and award passed by the Jt. District Judge, Nasik in Land Acquisition Reference No. 125 of 1985 on 23rd October, 1991.

2. The claimant is the owner of Land Gut Nos. 57 and 156 situated at village Ondali, Taluka Igatpuri, District Nasik. Out of the said Gut numbers an area of 0.13.3 Are and 0.13 Are was acquired for the purpose of Vaitarna lake under Preliminary Notification published on 14/7/1983. It seems that the Land Acquisition

Officer awarded compensation of Rs. 4870.25 ps to the claimant (wrongly mentioned as Rs. 3162.50 in the Reference Application). The claimant accepted the said amount under protest, as according to him the compensation determined by the Land Acquisition Officer was grossly inadequate. The claimant, therefore, made reference under Section 18 of the Land Acquisition Act.

3. According to the claimant his land was proposed to be acquired before 1974 for the purpose of Vaitarna lake. However subsequently the land was released from Acquisition without the claimant's consent. Ever since the storage of water in Vaitarna lake since 1974, the land under acquisition got submerged. The claimant agitated the issue about the loss of user of the land. It was a Bagayat land and best paddy field. The claimant was deprived of the yield and profits from the land since 1974. This aspect has not been taken into consideration by the Land Acquisition Officer. The Land Acquisition Officer determined the market price of the acquired land at Rs. 12,500/- per hector, whereas it should have been fixed at Rs. 1,25,000/- per hector. The claimant therefore, claimed additional compensation of Rs. 29,712/-.

4. It appears that the State did not file written statement.

5. The Reference Court framed necessary issues. The claimant examined several witnesses in support of his claim. After considering the evidence on record the Reference Court fixed the price of land at the rate of Rs. 20,000/- per hector and granted compensation of Rs. 24,369/-. The State has challenged the said order.

7. I have heard Mr. Bharat Mehta, AGP for the Appellant/State. None for the Respondent/Claimant.

8. The only point that was urged by Mr. Bharat Mehta, was that the Reference Court erred in granting interest from 1/1/1974 by holding that the claimant was deprived of the user of the land since the completion of water tank of Vaitarna Dam. Mr. Bharat Mehta pointed out that the Reference Court granted interest despite its observation that no exact date as to when the lands were submerged into the percolation of water tank of Vaitarna lake has been established.

9. I have carefully considered the submission. It may be seen that the evidence of the claimant has gone unchallenged. The Reference Court found that the claimant made protest to the Government to acquire his land as it was submerged in the water of Vaitarna Dam. There was nothing to disbelieve the testimony of the claimant and hence the Reference Court granted interest as the claimant was deprived of the income from the land because of its submergence in 1974. I see no reason to interfere with the finding recorded by the Reference Court.

10. Thus there is no substance in the appeal and the same deserves to be dismissed. The same is, therefore, dismissed with costs.

[K. J. ROHEE, J.]